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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,388	07/01/2005	Gudrun Rappold-Hoerbrand	2951-140	6384

6449 7590 05/07/2007
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

EXAMINER

SAOUD, CHRISTINE J

ART UNIT	PAPER NUMBER
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1647

NOTIFICATION DATE	DELIVERY MODE
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05/07/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10541388	7/1/05	RAPPOLD-HOERBRAND ET AL.	2951-140

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EXAMINER

Christine J. Saoud

ART UNIT	PAPER
1647	20070501

DATE MAILED:

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Commissioner for Patents

37 CFR 1.145 states:

If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

Applicant's amendment filed 24 April 2007 is non-responsive because the originally elected invention (i.e. pharmaceutical compositions of natriuretic peptide) is no longer present in the application. As pointed out in the previous Office action, Applicant's traversal of the restriction was not persuasive because unity of invention was not established because the first named invention did not constitute a contribution over the prior art as evidenced by WO 02/074234. Applicant made an election in the reply filed 30 October 2006 and this election was not directed to methods of treatment. See page 5 of the response at paragraph 3. Applicant's continued traversal of the restriction is not persuasive. Applicant states at page 9 of the instant response that the elected invention were the use claims in group I and that these claims were converted to method claims. However, the invention of Group I was set forth in the restriction require of 29 September 2006 as "pharmaceutical compositions". In Applicant's claim amendments, all the original claims were canceled and new claims were added. The only claim that read on the elected invention was claim 27, therefore, this is the only claim examined in the previous Office action.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 18-26 and 31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 24 April 2007 canceling the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the reasons provided above.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine J. Saoud whose telephone number is 571-272-0891. The examiner can normally be reached on Monday-Friday, 6AM-2PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**CHRISTINE J. SAOUD
PRIMARY EXAMINER**

Christine J. Saoud